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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 LOUIS DICAPUA, JR.,

11 Plaintiff,

12 v.

13 REMEDY INTELLIGENT STAFFING,

14 Defendant.  
15  
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Case No. C09-5082RJB

ORDER ON  
APPLICATION TO  
PROCEED IN FORMA  
PAUPERIS AND FOR  
COURT APPOINTED  
COUNSEL

17 This matter comes before the Court on Plaintiff's Application to Proceed *In Forma Pauperis* (Dkt.  
18 1, at 1) and Plaintiff's Application for Court Appointed Counsel (Dkt. 1-3, at 1). The Court has  
19 considered the pleadings filed and the remainder of the file herein.

20 **I. FACTS**

21 On February 12, 2009, Plaintiff, *pro se*, filed a Complaint alleging that he is deaf and that the  
22 Defendant discriminated against him based on his disability. Dkt. 1-2. Plaintiff alleges that Defendant is a  
23 temporary staffing agency. *Id.*, at 2. Plaintiff alleges that after Defendant hired him, Defendant failed to  
24 accommodate his need for a sign language interpreter for a job orientation held by one of Defendant's  
25 clients. *Id.* He states that he was not given the job he was offered as a result. *Id.*

26 Plaintiff filed an application to proceed *in forma pauperis*. Dkt. 1. Plaintiff provided a financial  
27 affidavit stating that he supports three young children on his social security disability income of around  
28 \$966.00 a month. Dkt. 1-3, at 2-5. He claims to have \$8.00 in his checking account. *Id.* Plaintiff also

1 filed a motion for the appointment of counsel. Dkt. 1-3.

## 2 **II. DISCUSSION**

### 3 **A. APPLICATION FOR IN FORMA PAUPERIS**

4 The district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a  
5 proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). The court has broad discretion in denying an  
6 application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598, 599 (9th Cir. 1963), *cert.*  
7 *denied* 375 U.S. 845 (1963).

8 Plaintiff's application to proceed in forma pauperis should be granted. Plaintiff has completed the  
9 proper affidavit of indigency. It appears that Plaintiff does not have the funds to pay the \$350.00 filing fee  
10 in this case.

### 11 **B. APPLICATION FOR APPOINTMENT OF COUNSEL**

12 Pursuant to 42 U.S.C. § 2000e-5(f)(1), "[u]pon application by the complainant and in such  
13 circumstances as the court may deem just, the court may appoint an attorney for such complainant and may  
14 authorize the commencement of the action without the payment of fees, costs, or security." In deciding  
15 whether to appoint counsel in an employment discrimination case, the court assesses the applicant's  
16 financial resources, efforts the applicant has already made to secure counsel, and whether the claim has  
17 merit. *Bradshaw v. Zoological Society of San Diego*, 662 F.2d 1301 (9th Cir. 1981).

18 Plaintiff's motion for appointment of counsel (Dkt. 1-3, at 1) should be denied without prejudice.  
19 Although Plaintiff has shown that he possesses few financial resources and he may have alleged sufficient  
20 facts to show that his claims have merit, he has not shown that he has made a sufficient effort to secure  
21 counsel. Plaintiff raises concerns about needing an interpreter while meeting with an attorney but it  
22 appears, based upon his pleadings, he is able to write well enough to express his claims. Although Plaintiff  
23 is not required to "exhaust the legal directory" he is required to make "a reasonably diligent effort under  
24 the circumstances" to find his own counsel. *Bradshaw* at 1319. Plaintiff's motion should be denied  
25 without prejudice to give him an opportunity to contact counsel. He may, if he so chooses, re-file the  
26 motion and try to show that he has made a sufficient effort to secure counsel.

## 27 **III. ORDER**

28 Therefore, it is hereby, **ORDERED** that:

- 1 • Plaintiff's Application to Proceed in Forma Pauperis (Dkt. 1, at 1) is **GRANTED**, and
- 2 • Plaintiff's Application for Court Appointed Counsel (Dkt. 1-3, at 1) is **DENIED WITHOUT**
- 3 **PREJUDICE**.

4 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any  
5 party appearing *pro se* at said party's last known address.

6 DATED this 19<sup>th</sup> day of February, 2009.

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11 ROBERT J. BRYAN  
12 United States District Judge  
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